

ATTACHMENT 2

RULE FINDINGS FOR NEW RULE 810 (FEDERAL PREVENTION OF SIGNIFICANT DETERIORATION) AND AMENDED RULES 102 (DEFINITIONS), 202 (EXEMPTIONS TO RULE 201), 370 (POTENTIAL TO EMIT - LIMITATIONS FOR PART 70 SOURCES), AND 1301 (PART 70 OPERATING PERMITS - GENERAL INFORMATION)

Pursuant to California Health and Safety Code Section 40727, the Board makes the following findings for the adoption of new Rule 810 (Federal Prevention of Significant Deterioration) and amended Rule 102 (Definitions), Rule 202 (Exemptions to Rule 201), Rule 370 (Potential to Emit - Limitations for Part 70 Sources), and Rule 1301 (Part 70 Operating Permits - General Information).

Necessity

The Board determines that it is necessary to adopt new Rule 810 (Federal Prevention of Significant Deterioration) and amended Rule 102 (Definitions), Rule 202 (Exemptions to Rule 201), Rule 370 (Potential to Emit - Limitations for Part 70 Sources), and Rule 1301 (Part 70 Operating Permits - General Information) to implement the EPA Greenhouse Gas Tailoring Rule provisions ((40 Code of Federal Regulations, Parts 51, 52, 70, and 71).

Authority

The Board is authorized under state law to adopt, amend, or repeal rules and regulations pursuant to Health and Safety Code Section 40000, and 40725 through 40728 which assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to Health and Safety Code Section 40702, the District Board is required to adopt rules and regulations and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.

Clarity

The Board finds that Rule 810 (Federal Prevention of Significant Deterioration), Rule 102 (Definitions), Rule 202 (Exemptions to Rule 201), Rule 370 (Potential to Emit - Limitations for Part 70 Sources), and Rule 1301 (Part 70 Operating Permits - General Information) are sufficiently clear. The rules were publicly noticed and reviewed by the Community Advisory Council. The rules are written or displayed so that its meaning can be easily understood by persons directly affected by it.

Consistency

The Board determines that proposed Rule 810 and amended Rules 102, 202, 370, and 1301 are consistent with, and not in conflict with or contradictory to, existing federal or state statutes, court decisions, or regulations.

The neighboring air pollution control districts include the Ventura County Air Pollution Control District, San Luis Obispo County Air Pollution Control District, and the San Joaquin Valley Unified Air Pollution Control District. All of our neighboring air pollution control districts are in the process of adopting similar rule requirements to those proposed in the new Rule 810 and amended Rules 102, 202, 370, and 1301. Based on this evidence, the Board finds that the rules are consistent with neighboring air pollution control districts.

Nonduplication

The Board finds that the proposed new Rule 810 (Federal Prevention of Significant Deterioration) and amended Rule 102 (Definitions), Rule 202 (Exemptions to Rule 201), Rule 370 (Potential to Emit - Limitations for Part 70 Sources), and Rule 1301 (Part 70 Operating Permits - General Information) do not impose the same restrictions as any existing state or federal regulation, and the proposed amendments are necessary and proper to execute the powers and duties granted to, and imposed upon, the APCD.

Reference

The Board finds that we have authority under state law to adopt new Rule 810 (Federal Prevention of Significant Deterioration) and amend Rule 102 (Definitions), Rule 202 (Exemptions to Rule 201), Rule 370 (Potential to Emit - Limitations for Part 70 Sources), and Rule 1301 (Part 70 Operating Permits - General Information) pursuant to Health and Safety Code Section 39002. Health and Safety Code Section 39002 assigns to local and regional authorities the primary responsibility for the control of air pollution from all sources other than exhaust emissions from motor vehicles. Additionally, pursuant to Health and Safety Code Section 40702, the Board is required to adopt rules and regulations and to do such acts as are necessary and proper to execute the powers and duties granted to it and imposed upon it by State law.

Public Comment

Response to Comments

The Board has reviewed the responses to public comments included in Attachment 3 and hereby approves those responses to comments as findings.

ATTACHMENT 3

PUBLIC COMMENTS AND RESPONSES TO PUBLIC
COMMENTS

PROPOSED NEW RULE:

RULE 810 (FEDERAL PREVENTION OF SIGNIFICANT
DETERIORATION)

and

PROPOSED AMENDED RULES:

RULE 102 (DEFINITIONS)

RULE 202 (EXEMPTIONS TO RULE 201)

RULE 370 (POTENTIAL TO EMIT – LIMITATIONS
FOR PART 70 SOURCES)

RULE 1301 (PART 70 OPERATING PERMITS –
GENERAL INFORMATION)

January 20, 2011

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

ATTACHMENT 3

PUBLIC COMMENTS AND RESPONSES TO PUBLIC COMMENTS

**Environmental Protection Agency,
December 3, 2010**

[COMMENT 1]

In reviewing Rules 102 and 201, it is not clear to EPA that either of these rules needs to be revised. In Rule 102, your general definition rule, you propose to expand the definition of major source to include sources with GHG emissions over the tailoring rule thresholds. But the only two places this new definition applies is in your Part 70 rules (370 and 1301) which you are amending separately and the new PSD rule 810, which also contains its own major source definition. It seems unnecessary, and it may have some unintended consequences to change your general definition of major source to include GHGs.

[RESPONSE TO COMMENT 1]

The District agrees that a revised Rule 102 "Major Stationary Source Definition" is not necessary and we have removed its amendment from proposed amended Rule (PAR) 102. However, we believe other new/amended definitions are necessary to Rule 102 as discussed below.

[COMMENT 2]

In Rule 201, it appears that the current applicability criteria, devices that "may cause the issuance of air contaminants" is sufficiently broad to cover GHG, and thus no change is need to this rule. Again, see my comment in the rule about potential unintended consequences.

[RESPONSE TO COMMENT 2]

We agree and have retracted Rule 201 amendments from the project.

[COMMENT 3]

In most of the rules, you choose to reference EPA regulations to cite the new GHG tailoring rule thresholds, but you only provided very broad citation levels (i.e. to the reg, but no section number). In addition, the term "GHG threshold" is not defined in the EPA regulations, like the terms "significance" or "major source" are defined with specific thresholds. Instead, the GHG permitting thresholds are somewhat buried in the new definition EPA added of "subject to regulation." So the net effect is when a source has PTE emissions that meet the definition of subject to regulation for GHG, they are subject to PSD and/or Title V requirements. This definition includes the triggering dates and thresholds. I made a suggested edit to cite the EPA regulations in this manner.

[RESPONSE TO COMMENT 3]

The issue of providing only broad citation levels in the PARs no longer exists with the PAR changes and retraction. The citations in PAR 370 and 1301 refer to 40 CFR 70.2.

The District replaced the term "greenhouse gas thresholds" with the EPA-recommended text, "subject to regulation."

[COMMENT 4]

I will also note that while it is acceptable to cross reference to the CFR language to incorporate the tailoring rule thresholds into your regulations, it is not the preferred method, since a reader must now pull out a copy of the cross-referenced regulations to determine these values. EPA strongly encourages you to reconsider this approach.

[RESPONSE TO COMMENT 4]

The cross-referencing greatly simplifies the rule text, and we have retained it to avoid complexities. In addition, we have defined the GHG threshold levels to potentially impacted sources.

[COMMENT 5, REFERENCE MARKED-UP PAR 102]¹

“Major Stationary Source” means a stationary source of air pollutants which emits or has the potential to emit:

1. one hundred tons per year or more of any pollutant, ~~except greenhouse gases, or,~~
2. greenhouse gases equal to or exceeding the greenhouse gas thresholds as specified in 40 CFR 52.21 in effect [date of amended rule adoption]
2. greenhouse gases that are subject to regulation as defined in 40 CFR § 52.21(b)(49) as of July 1, 2010 (or date of adoption).

Comment [LAV1]: You must either include an “or” here or an “either” at the end of the leading sentence.

Comment [LAV2]: This doesn’t work since 52.21 does not list any specific GHG thresholds. If you want to point back to 52.21 rather than include specific language here, I’ve pasted in a suggestion.

I strongly recommend putting actual numerical thresholds in your definition rule. It is always more difficult when a rule cross-references to another rule, especially when the citation is to something in the CFR and not your rulebook. If this is your preferred route, then the language I have provided provides a specific citation to the thresholds, which are only found within the definition of “subject to regulation.” The language you proposed is too vague and not enforceable as a practical matter, since 52.21 does not provide a definition of the terms GHG or threshold. I also suggest you use the July 1 date if you are going to send the reader to the CFR. This is the date the CFR is published annually, and it provides an easy way to look up what was in the CFR as of that date, versus the miscellaneous date of your rule adoption.

[RESPONSE TO COMMENT 5]

Please see the responses to items 1 and 4. (The new 40 CFR GHG Tailoring Rule provisions are effective August 2, 2010).

[COMMENT 6, REFERENCE MARKED-UP PAR 201]

1. This rule applies to any person who builds, erects, alters, replaces, operates or uses any article, machine, equipment, or other contrivance which ~~may cause the issuance of air contaminants.~~
2. For the purposes of greenhouse gases, this rule applies to any person who builds, erects, alters, replaces, operates or uses any article, machine, equipment, or other contrivance which has the potential to emit any greenhouse gases that are subject to regulation as defined in 40 CFR § 52.21(b)(49) as of July 1, 2010 (or date of adoption) ~~greenhouse gas or combination of greenhouse gases that exceeds the carbon dioxide equivalent emissions thresholds specified in Title 40, Code of Federal Regulations, Part 52, Section 52.21 (40 CFR 52.21) in effect [date of amended rule adoption].~~

Comment [LAV1]: Again, 52.21 does not provide any such thresholds.

It appears that the current language in A.1, “may cause the issuance of air contaminants”, is already sufficiently broad to address GHG emitting sources. As written, A.2 says that this rule only applies to a source emitting GHG emissions above the specified threshold. So if a source is emitting GHG emissions below this threshold, but also other “air contaminants”, is it subject to this rule? At a minimum, and “or” needs to be added between section 1 and 2, but EPA suggest simply deleting A.2 and not making any revisions to this rule.

[RESPONSE TO COMMENT 6]

Please see the response to item 2.

[COMMENT 7, REFERENCE MARKED-UP PAR 370]

All terms shall retain the definitions provided under 40 CFR Part 70.2 in effect [date of amended rule adoption] or District Rule 1301, [Part 70 Operating Permits - General Information](#), as applicable, unless otherwise defined herein.

Comment [LAV1]: What does this mean? Wont there be a lot of overlap? Shouldn’t you instead say which definition takes control if any definition differs between the two rules?

¹ For brevity, the District has combined many of the subsequent comments into one.

[RESPONSE TO COMMENT 7]

This is existing text and there are not conflicts between the definitions in Rules 370 and 1301.

[COMMENT 8, REFERENCE MARKED-UP PAR 370]

"Major Source of Regulated Air Pollutants (excluding hazardous air pollutants)" means ~~a~~-any stationary source:

a. ~~that emits or has the potential to emit a regulated air pollutant (excluding hazardous air pollutants) in quantities equal to or exceeding any of the following thresholds:~~

Comment [LAV2]: Otherwise a source would have to meeting all of the listed thresholds.

a. ~~100 tons per year (tpy) of any regulated air pollutant, or lower threshold as applicable for the District under Title I, Part D of the federal Clean Air Act and its implementing regulations.~~

b. ~~For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tons per year or more in areas classified as "serious", 25 tons per year or more in areas classified as "severe", and 10 tons per year or more in areas classified as "extreme".~~

- 1) ~~one hundred tons per year or more of any pollutant, except greenhouse gases.~~
- 2) ~~greenhouse gases that are subject to regulation as defined in 40 CFR § 52.21(b)(49) as of July 1, 2010 (or date of adoption) greenhouse gases equal to or exceeding the greenhouse gas thresholds as specified in 40 CFR 70.2 in effect [date of amended rule adoption].~~
- 3) ~~any lesser quantity thresholds established by Environmental Protection Agency rulemaking.~~

Comment [LAV3]: This is not needed since the header states "equal to or exceeding"

b. ~~(defined by the Environmental Protection Agency as major for the District under Title I, Part D (Plans for Nonattainment Areas) of the Clean Air Act and its implementing regulations including:~~

Comment [LAV4]: Where specifically does EPA do this defining? It is not clear to me what this preface section "b" language adds to this section. I'd suggest just making the 1) language as "b". This language makes it clear to the reader what the major source thresholds are. The cite to 81.305 tells the reader where they can find out what the NA classification is for your District.

- 1) ~~For ozone nonattainment areas, stationary sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified under 40 CFR 81.305 as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme."~~

~~Fugitive emissions of these pollutants shall be considered in calculating total emissions for stationary sources in accordance with 40 CFR Part 70.2 "Definitions- Major source(2):" in effect [date of amended rule adoption].~~

Comment [LAV5]: This seems duplicative, since you already have this "in effect" date in relation to 70.2 in the into to this section

[RESPONSE TO COMMENT 8]

The District made the suggested addition to Section "a." On the Section "a.1" edit the "or more" text is removed. For the Section "a.2" text:

1. *Staff verified with the commentor that the 40 CFR reference to 70.2 should be maintained, and*
2. *The "threshold" language changed to be "subject to regulation."*

Regarding the Section "b" addition, EPA asks, "Where specifically does EPA do this defining?" The implementing regulations that defines "major stationary source" are:

1. *Clean Air Act, Title III, Section 302(j), and*
2. *40 CFR 70.2*

It should be noted that this is similar to the text found in the current/existing Rule 1301 "Part 70 Source" definition (Rule 1301.C.2). The District is amending the Rule 370 "Major Source of Regulated Air Pollutants (excluding hazardous air pollutants)" definition to be consistent with the Rule 1301 "Part 70 Source" definition. Hence, the District has left the Rule 370 definition of "Major Source of Regulated Pollutants . . ." Section "b" unchanged.

On the "in effect" clause being in the Rule 370 Section C introduction and in the reference to fugitive emissions, our counsel has advised us that it is desirable to include a date of reference whenever citing a 40 CFR part or section.

[COMMENT 9, REFERENCE MARKED-UP PAR 370]

- e. Any pollutant subject to a standard ~~or requirement~~ promulgated ~~pursuant to under~~ Section 112 (Hazardous Air Pollutants) of the ~~federal~~ Clean Air Act ~~and its implementing regulations~~, including:
 - 1) Any pollutant listed pursuant to Section 112(r) (Prevention of Accidental Releases) of the Clean Air Act and its implementing regulations shall be considered a regulated air pollutant upon promulgation of the list.
 - 2) Any hazardous air pollutant subject to a standard or other requirement promulgated by the USEPA Environmental Protection Agency pursuant to Section 112(d) of the Clean

Comment [LAY7]: Not an approval issue, but the Section 'e; header already says "CAA and its implementing regulations"... is it necessary to repeat in each of these subsections?

[RESPONSE TO COMMENT 9]

The District removed the subsequent "and its implementing regulation" from PAR 370. The corresponding existing text in the Rule 1301 definition of "Regulated Air Pollutant" is now shown as deleted in PAR 1301 as well.

[COMMENT 10, REFERENCE MARKED-UP RULE 810]

B. Applicability

The provisions of this rule shall apply to any source and the owner or operator of any source subject to any requirement under 40 Code of Federal Regulations, Part 52, Section ~~52-21~~ (40 CFR 52.21) in effect [*date of rule adoption*] as incorporated into this rule.

Comment [LAY1]: EPA recommends using the July 1, 2010 date for easier reference to these req's.

C. Incorporation by Reference

Except as provided below, the provisions of Title 40 CFR 52.21 in effect [*date of adoption*] are incorporated herein by reference and made part of the Rules and Regulations of the Santa Barbara County Air Pollution Control District.

[RESPONSE TO COMMENT 10]

We revised each reference to indicate "August 2, 2010," the date the new 40 CFR GHG Tailoring Rule provisions become effective.

[COMMENT 11, REFERENCE MARKED-UP RULE 810]

- b. The phrase "paragraph (q) of this section" in 40 CFR 52.21(p)(1) shall read as follows: "the public notice and comment provisions of Rule 810 Section E below."

Comment [LAY2]: When reading in the context of 52.21, there is no Section E, so this needs to be more specific.

[RESPONSE TO COMMENT 11]

We've made the suggested addition.

[COMMENT 12, REFERENCE MARKED-UP PAR 1301]

"Regulated Air Pollutant" means any air pollutant (a) which is emitted into and otherwise enters the ambient air, as defined in 40 CFR 50.1 ~~in effect~~ [*date of amended rule adoption*], and (b) for which the USEPA Environmental Protection Agency has adopted an emission limit, standard or other requirement. Regulated air pollutants include:

Comment [LAY1]: Again, recommend using the July 1, 2010 date for ease of reference.

[RESPONSE TO COMMENT 12]

We've made the suggested revision using "August 2, 2010."

[COMMENT 13, REFERENCE DRAFT BACKGROUND PAPER, PAGE 5]

Table 1. EXISTING SOURCES EPA MAJOR SOURCES (250 tpy or Greater)
AND/OR PART 70 PERMIT SOURCES

Comment [LAY1]: If any source is one of the listed categories, this threshold would be 100 tpy.

Stationary Source	Stationary Source Name	EPA Major Source (250 tpy)	Part 70
02667	BreitBurn Energy- Orcutt Hill	1	1

[RESPONSE TO COMMENT 13]

That is true, but none of these sources are in a category listed in 40 CFR 52.21(b)(1)(i)(a).

[COMMENT 14, REFERENCE DRAFT BACKGROUND PAPER, APPENDIX B, PAGE B-2]

Availability of a Guidance Document on How the PSD and Part 70 GHG Requirements Apply for the Two Phases

Comment [LAY2]: You may want to revise to include the new guidance document EPA issued in Nov. I will attach a copy.

Questions/Issues: Is there a guidance document on how the PSD and Part 70 GHG requirements apply for the two phases? We think it may be a useful to have such a document to facilitate the explanation on how the different provisions are triggered and at what thresholds.

[RESPONSE TO COMMENT 14]

The District revised the response to include a reference to the November 2010 EPA document, "PSD and Title V Permitting Guidance For Greenhouse Gases."

ATTACHMENT 4

PROPOSED NEW RULE AND AMENDED RULES

PROPOSED NEW RULE:

RULE 810 (FEDERAL PREVENTION OF SIGNIFICANT
DETERIORATION)

and

PROPOSED AMENDED RULES:

RULE 102 (DEFINITIONS)

RULE 202 (EXEMPTIONS TO RULE 201)

RULE 370 (POTENTIAL TO EMIT – LIMITATIONS
FOR PART 70 SOURCES)

RULE 1301 (PART 70 OPERATING PERMITS –
GENERAL INFORMATION)

January 20, 2011

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

Attachment 4

Proposed Amended Rule 102 (Definitions),

Proposed Amended Rule 202 (Exemptions to Rule 201),

***Proposed Amended Rule 370
(Potential to Emit - Limitations for Part 70 Sources),***

***Proposed New Rule 810
(Federal Prevention of Significant Deterioration), and***

***Proposed Amended Rule 1301
(Part 70 Operating Permits - General Information)***

[Proposed new/amended rule text is provided in strikeout and underlined format. Strikeout indicates text proposed for deletion. Underlined text indicates proposed new text.]

RULE 102. DEFINITIONS. (Adopted 10/18/1971, revised 1/12/1976, readopted 10/23/1978, revised 7/11/1989, 7/10/1990, 7/30/1991, 7/18/1996, 4/17/1997, 1/21/1999, 5/20/1999, 6/19/2003, 1/20/2005, 6/19/2008, 1/15/2009, and 9/20/2010, and [date of amended rule adoption])

These definitions apply to the entire rulebook. Definitions specific to a given rule are defined in that rule or in the first rule of the relevant regulation. Except as otherwise specifically provided in these Rules where the context otherwise indicates, words used in these Rules are used in exactly the same sense as the same words are used in Division 26 of the Health and Safety Code.

[...]

“Attainment Pollutant” means any affected pollutant which is not a nonattainment pollutant. For the purposes of this definition greenhouse gases are not attainment pollutants.

[...]

“Greenhouse Gas” or “Greenhouse Gases” means “Greenhouse gas” or “greenhouse gases” as defined in Health and Safety Code Section 38505(g).

[...]

APPROVED AS TO FORM:

DENNIS A. MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____
Deputy
Attorneys for the Santa Barbara County
Air Pollution Control District

RULE 202. EXEMPTIONS TO RULE 201. (Adopted 10/18/1971, revised 5/1/1972 and 6/27/1977, readopted 10/23/1978, revised 12/7/1987, 1/11/1988, 1/17/1989, 7/10/1990, 7/30/1991, 11/05/1991, 3/10/1992, 5/10/1994, 6/28/1994, 4/17/1997, 3/17/2005, 1/17/2008, 6/19/2008, and 9/20/2010, and [date of amended rule adoption])

[. . .]

D. General Provisions

[. . .]

2. For the purposes of demonstrating that the emissions exempted do not exceed the aggregate exemption limit specified in Sections G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, or V of this Rule the owner or operator may base the demonstration on actual emissions provided the owner or operator keeps material use records in a manner approved by the Control Officer. Otherwise the owner or operator must maintain records that demonstrate that the potential to emit of the equipment will not exceed the applicable aggregate exemption emission limit. When calculating the actual emissions for determining whether the aggregate emission limit in this Rule is exceeded, greenhouse gases shall not be included.

[. . .]

APPROVED AS TO FORM:

DENNIS A. MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____

Deputy
Attorneys for the Santa Barbara County
Air Pollution Control District

RULE 370. POTENTIAL TO EMIT – LIMITATIONS FOR PART 70 SOURCES. (Adopted 6/15/1995, revised 1/18/2001 and [date of amended rule adoption])

[...]

C. Definitions

All terms shall retain the definitions provided under 40 CFR Part 70.2 in effect August 2, 2010 or District Rule 1301, Part 70 Operating Permits - General Information, as applicable, unless otherwise defined herein.

[...]

"Major Source of Regulated Air Pollutants (excluding hazardous air pollutants)" means ~~a~~any stationary source;

a. ~~_____~~ that emits or has the potential to emit a regulated air pollutant (excluding hazardous air pollutants) in quantities equal to or exceeding any of the following thresholds:

a. ~~_____~~ 100 tons per year (tpy) of any regulated air pollutant, or lower threshold as applicable for the District under Title I, Part D of the federal Clean Air Act and its implementing regulations.

b. ~~_____~~ For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tons per year or more in areas classified as "serious", 25 tons per year or more in areas classified as "severe", and 10 tons per year or more in areas classified as "extreme".

1) ~~_____~~ one hundred tons per year of any pollutant, except greenhouse gases.

2) ~~_____~~ greenhouse gases that are "subject to regulation" as defined in 40 CFR 70.2 in effect August 2, 2010.

3) ~~_____~~ any lesser quantity thresholds established by Environmental Protection Agency rulemaking.

b. ~~_____~~ defined by the Environmental Protection Agency as major for the District under Title I, Part D (Plans for Nonattainment Areas) of the Clean Air Act and its implementing regulations including:

1) ~~_____~~ For ozone nonattainment areas, stationary sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tons per year or more in areas classified as "serious," 25 tons per year or more in areas classified as "severe," and 10 tons per year or more in areas classified as "extreme."

Fugitive emissions of these pollutants shall be considered in calculating total emissions for stationary sources in accordance with 40 CFR Part 70.2 "Definitions- Major source(2)-" in effect August 2, 2010.

[...]

"Regulated Air Pollutant" means ~~the following air pollutants as regulated under the federal Clean Air Act:~~ any air pollutant (a) which is emitted into and otherwise enters the ambient air, as defined in 40 CFR 50.1 in effect August 2, 2010, and (b) for which the Environmental Protection Agency has adopted an emission limit, standard or other requirement. Regulated air pollutants include:

a. Oxides of nitrogen and volatile organic compounds (as defined in 40 CFR 51.166 in effect August 2, 2010);

b. Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the Clean Air Act and its implementing regulations;

- e. ~~Any Class I or Class II ozone depleting substance subject to a standard promulgated under Title VI of the federal Clean Air Act;~~
- d. Any pollutant ~~that is~~ subject to any standard promulgated under Section 111 (New Source Performance Standards) of the ~~federal~~ Clean Air Act and its implementing regulations;
- d. Any ozone-depleting substance specified as class I or II substance pursuant to Title VI of the Clean Air Act and its implementing regulations; and
- e. Any pollutant subject to a standard ~~or requirement~~ promulgated ~~pursuant to~~ under Section 112 (Hazardous Air Pollutants) of the ~~federal~~ Clean Air Act and its implementing regulations, including:
 - 1) Any pollutant listed pursuant to Section 112(r) (~~Prevention of Accidental Releases~~) of the Clean Air Act shall be considered a regulated air pollutant upon promulgation of the list.
 - 2) Any hazardous air pollutant subject to a standard or other requirement promulgated by the ~~USEPA~~ Environmental Protection Agency pursuant to Section 112(d) of the Clean Air Act or adopted by the District pursuant to 112(g) and (j) of the Clean Air Act shall be considered a regulated air pollutant for all sources or source categories of sources: (i) upon promulgation of the standard or requirement, or (ii) 18 months after the standard or requirement was scheduled to be promulgated pursuant to Section 112(e)(3) of the Clean Air Act.
 - 3) Any hazardous air pollutant subject to a District case-by-case emissions limitation determination for a new or modified source, prior to the ~~USEPA~~ Environmental Protection Agency promulgation or scheduled promulgation of an emissions limitation, shall be considered a regulated air pollutant when the determination is made pursuant to Section 112(g)(2) of the Clean Air Act. In case-by-case emissions limitation determinations, the hazardous air pollutant shall be considered a regulated air pollutant only for the individual source for which the emissions limitation determination was made.
- f. Greenhouse gases that are "subject to regulation" as defined in 40 CFR 70.2 in effect August 2, 2010.

[...]

E. Recordkeeping Requirements

Immediately after the date of adoption of this Rule, the owner or operator of a stationary source subject to this Rule shall comply with any applicable recordkeeping requirements in this section. However, for a stationary source operating under an alternative operational limit, the owner or operator shall instead comply with the applicable recordkeeping and reporting requirements specified in Section G, Alternative Operational Limit and Requirements. The recordkeeping requirements of this Rule shall not replace any recordkeeping requirement contained in an operating permit or in ~~an~~ a District, State, or Federal rule or regulation.

[...]

APPROVED AS TO FORM:

DENNIS A. MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____

Deputy
Attorneys for the Santa Barbara County
Air Pollution Control District

RULE 810. FEDERAL PREVENTION OF SIGNIFICANT DETERIORATION (PSD). (Adopted [date of adoption])

A. Purpose

The federal Prevention of Significant Deterioration program is a construction permitting program for new major stationary sources and major modifications to existing major stationary sources located in areas classified as attainment or in areas that are unclassifiable for any criteria air pollutant. Rule 201 (Permits Required) contains application requirements and Rule 204 (Applications), Rule 205 (Standards for Granting Applications), Rule 206 (Conditional Approval of Authority to Construct or Permit to Operate), Rule 207 (Denial of Applications), and Rule 208 (Action on Applications - Time Limits) contain processing requirements for permit actions. The purpose of this rule is to incorporate the federal Prevention of Significant Deterioration rule requirements into the District's Rules and Regulations by incorporating the federal requirements by reference.

B. Applicability

The provisions of this rule shall apply to any source and the owner or operator of any source subject to any requirement under 40 Code of Federal Regulations, Part 52, Section 52.21 (40 CFR 52.21) in effect August 2, 2010 as incorporated into this rule.

C. Incorporation by Reference

Except as provided below, the provisions of Title 40 CFR 52.21 in effect August 2, 2010 are incorporated herein by reference and made part of the Rules and Regulations of the Santa Barbara County Air Pollution Control District.

1. The following subsections of 40 CFR 52.21 are excluded: (a)(1), (b)(55-58), (f), (g), (i)(1)(i-v), (i)(1)(ix-x), (i)(6-8), (p)(6-8), (q), (s), (t), (u), (v), (w), (x), (y), (z), and (cc).
2. The following definitions found in 40 CFR 52.21(b) are revised as follows:
 - a. The definition of "potential to emit" contained in 40 CFR 52.21(b)(4) is revised so that the phrase "is federally enforceable" shall read "is federally enforceable or enforceable as a practical matter."
 - b. The definition of "allowable emissions" contained in 40 CFR 52.21(b)(16) is revised so that:
 - 1) the phrase "unless the source is subject to federally enforceable limits which restrict the operating rate, or hours of operation, or both" shall read, "unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both."
 - 2) paragraph (iii) shall read as follows: "The emissions rate specified as an enforceable permit condition, including those with a future compliance date."
3. The following terms found in 40 CFR 52.21(b) are revised as follows:
 - a. The term "administrator" means:
 - 1) "federal administrator" in 40 CFR 52.21(b)(17), (b)(37)(i), (b)(43), (b)(48)(ii)(c), (b)(50)(i), (b)(51), (l)(2) and (p)(2); and

2) “Control Officer” elsewhere, as defined in Rule 102 (Definitions).

b. The phrase “paragraph (q) of this section” in 40 CFR 52.21(p)(1) shall read as follows: “the public notice and comment provisions of Rule 810 Section E below.”

D. Requirements:

1. An owner or operator must obtain a federal Prevention of Significant Deterioration permit pursuant to this rule before beginning actual construction of a new major stationary source, a major modification, or a plantwide applicability limitation (PAL) major modification, as defined in 40 CFR 52.21(b).
2. Notwithstanding the provisions of any other District Rule or Regulation, the Control Officer shall require compliance with this rule prior to issuing a federal Prevention of Significant Deterioration permit as required by Clean Air Act Section 165.
3. The applicant shall pay the applicable fees specified in Rule 210 (Fees).

E. Public Participation

Prior to issuing a federal Prevention of Significant Deterioration permit pursuant to this rule and after receipt of a complete application, the Control Officer shall:

1. Make a preliminary determination whether construction should be approved with conditions or disapproved.
2. Make available in at least one location in Santa Barbara County a copy of all materials the applicant submitted, a copy of the preliminary determination, a copy of the proposed permit and a copy or summary of other materials, if any, considered in making the preliminary determination.
3. Notify the public, by advertisement in a newspaper of general circulation in Santa Barbara County of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification, and of the opportunity for written public comment.
4. Send a copy of the notice of public comment to the applicant, United States Environmental Protection Agency Region 9, any persons requesting such notice and any other interested parties such as: Any other State or local air pollution control agencies; the chief executives of the cities in the County; the County Executive Officer; any comprehensive regional land use planning agency; and any State, Federal Land Manager, or Indian Governing body whose lands may be affected by emissions from the source or modification.
5. Provide opportunity for a public hearing for persons to appear and submit written or oral comments on the air quality impact of the source, alternatives to it, the control technology required, and other appropriate considerations, if in the Control Officer’s judgment such a hearing is warranted.
6. Consider all written comments that were submitted within 30 days after the notice of public comment is published and all comments received at any public hearing(s) in making a final decision on the approvability of the application and make all comments available for public inspection in the same locations where the District made available preconstruction information relating to the proposed source or modification.

7. Make a final determination whether construction should be approved with conditions or disapproved.
8. Notify the applicant in writing of the final determination and make such notification available for public inspection at the same location where the District made available preconstruction information and public comments relating to the source.

APPROVED AS TO FORM:

DENNIS A. MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____

Deputy
Attorneys for the Santa Barbara County
Air Pollution Control District

RULE 1301. PART 70 OPERATING PERMITS – GENERAL INFORMATION. (Adopted 11/09/1993, revised 8/15/1996, 9/18/1997, 1/18/2001, and 6/19/2003, and [date of amended rule adoption])

[. . .]

C. Definitions

For purposes of this Rule and of Rules 1302 through 1305, the definitions listed below shall apply:

[. . .]

"Final Operating Permit" means a permit with District and federally enforceable conditions, ~~that~~ which has completed all review procedures required by Rule 1304, Part 70 Operating Permits – Issuance, Renewal, Modification and Reopening, has not been disapproved by the USEPA Environmental Protection Agency and has been issued by the District.

[. . .]

"Part 70 Source" means stationary sources included in the following source categories:

1. A stationary source with the potential to emit a regulated air pollutant or a hazardous air pollutant (~~HAP~~) in quantities equal to or exceeding any of the following thresholds:
 - a. 100 tons ~~per year~~ of any regulated air pollutant except greenhouse gases.
 - b. greenhouse gases that are "subject to regulation" as defined in 40 CFR 70.2 in effect August 2, 2010.
 - ~~bc.~~ 10 tons ~~per year~~ of any individual ~~HAP~~ hazardous air pollutant or 25 tons ~~per year~~ of a combination of ~~HAP~~ hazardous air pollutants, or any lesser quantity thresholds for any ~~HAP~~ hazardous air pollutant established by USEPA Environmental Protection Agency rulemaking. Fugitive emissions of ~~HAP~~ hazardous air pollutants must be counted for the purposes of determining applicability. However, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units are Part 70 sources.
 - ~~ed.~~ Any lesser quantity thresholds established by USEPA Environmental Protection Agency rulemaking.
2. Any stationary source defined by the USEPA Environmental Protection Agency as major for the District under Title I, Part D (Plans for Nonattainment Areas) of the ~~CAA~~ Clean Air Act and its implementing regulations including:
 - a. For ozone nonattainment areas, sources with the potential to emit 100 tons per year or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate₁"; 50 tons per year or more in areas classified as "serious₁"; 25 tons per year or more in areas classified as "severe₂"; and 10 tons per year or more in areas classified as "extreme₂";

3. Acid rain sources included under the provisions of Title IV of the ~~CAA~~Clean Air Act and its implementing regulations.
4. Any source required to have a preconstruction review permit pursuant to the requirements of the ~~New sSource rReview (NSR) or pPrevention of sSignificant eDeterioration (PSD)~~ program under Title I, Parts C and D of the ~~CAA~~Clean Air Act and its implementing regulations.
5. Any solid waste incineration unit required to obtain a Part 70 permit pursuant to Section 129(e) of the ~~CAA~~Clean Air Act and its implementing regulations.
6. Any stationary source ~~in a source category~~ required to obtain a Part 70 permit pursuant to regulations promulgated by the ~~USEPA~~Environmental Protection Agency Administrator.

[. . .]

"Regulated Air Pollutant" means any air pollutant (a) which is emitted into and otherwise enters the ambient air, as defined in 40 CFR 50.1 ~~in effect August 2, 2010~~, and (b) for which the ~~USEPA~~Environmental Protection Agency has adopted an emission limit, standard or other requirement. Regulated air pollutants include:

1. Oxides of nitrogen (~~NOx~~); ~~also, and~~ volatile organic compounds (~~VOC~~) as defined in 40 CFR 51.166 ~~in effect August 2, 2010~~;
2. Any pollutant for which a national ambient air quality standard has been promulgated pursuant to Section 109 of the ~~CAA~~Clean Air Act and its implementing regulations;
3. Any pollutant subject to any standard promulgated under Section 111 (New Source Performance Standards) of the ~~CAA~~Clean Air Act and its implementing regulations;
4. Any ozone-depleting substance specified as class I or II substance pursuant to Title VI of the ~~CAA~~Clean Air Act and its implementing regulations;
5. Any pollutant subject to a standard promulgated under Section 112 (Hazardous Air Pollutants) of the ~~CAA~~Clean Air Act and its implementing regulations, including:
 - a. Any pollutant listed pursuant to Section 112(r) of the ~~CAA~~Clean Air Act ~~and its implementing regulations~~ shall be considered a regulated air pollutant upon promulgation of the list.
 - b. Any ~~HAP~~hazardous air pollutant subject to a standard or other requirement promulgated by the ~~USEPA~~Environmental Protection Agency pursuant to Section 112(d) of the ~~CAA~~Clean Air Act or adopted by the District pursuant to Sections 112(g) and 112(j) of the ~~CAA~~Clean Air Act shall be considered a regulated air pollutant for all sources or source categories: (a) upon promulgation of the standard or requirement, or (b) 18 months after the standard or requirement was scheduled to be promulgated pursuant to Section 112(e)(3) of the ~~CAA~~Clean Air Act.
 - c. Any ~~HAP~~hazardous air pollutant subject to a District case-by-case emissions limitation determination for a new or modified source, prior to ~~USEPA~~Environmental Protection Agency promulgation or scheduled promulgation of an emissions limitation, shall be considered a regulated air pollutant when the determination is made pursuant to Section 112(g)(2) of the ~~CAA~~Clean Air Act ~~and its implementing regulations~~. In case-by-case emissions limitation determinations, the ~~HAP~~hazardous air pollutant shall be considered a regulated air pollutant only for the individual source for which the emission limitation determination was made.

6. Greenhouse gases that are “subject to regulation” as defined in 40 CFR 70.2 in effect August 2, 2010.

[. . .]

APPROVED AS TO FORM:

DENNIS A. MARSHALL
SANTA BARBARA COUNTY COUNSEL

By _____

Deputy
Attorneys for the Santa Barbara County
Air Pollution Control District

ATTACHMENT 5

STAFF REPORT

PROPOSED NEW RULE:

RULE 810 (FEDERAL PREVENTION OF SIGNIFICANT
DETERIORATION)

and

PROPOSED AMENDED RULES:

RULE 102 (DEFINITIONS)

RULE 202 (EXEMPTIONS TO RULE 201)

RULE 370 (POTENTIAL TO EMIT – LIMITATIONS
FOR PART 70 SOURCES)

RULE 1301 (PART 70 OPERATING PERMITS –
GENERAL INFORMATION)

January 20, 2011

Santa Barbara County Air Pollution Control District

260 San Antonio Road, Suite A
Santa Barbara, California 93110

(805) 961-8800

**NEW RULE AND AMENDED RULES TO
IMPLEMENT EPA’S FEDERAL PREVENTION OF SIGNIFICANT DETERIORATION AND PART 70
GREENHOUSE GAS TAILORING RULE**

Rules 102, 202, 370, 810, and 1301

BACKGROUND

The Santa Barbara County Air Pollution Control District (District) proposes new/amended rules to implement the United States Environmental Protection Agency’s (EPA’s) requirements on greenhouse gases.^a Rulemaking is needed to provide the regulated industry relief from applying “criteria” pollutant emission thresholds to greenhouse gas (GHG) emissions. This rule action will implement the EPA emission thresholds for GHGs, which are higher than those for "criteria" air pollutants. “Criteria” pollutants include oxides of nitrogen, reactive organic compounds, particulate matter, oxides of sulfur, and carbon monoxide, but not GHGs.

On April 2, 2007, the U.S. Supreme Court found that GHGs are air pollutants covered by the federal Clean Air Act (CAA). The U.S. Supreme Court also found that EPA was required to determine whether or not emissions of GHGs from new motor vehicles cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare.

On December 15, 2009, EPA’s Administrator made the finding that six key GHGs in the atmosphere threaten the public health and welfare of current and future generations. EPA’s Administrator also found that the combined emissions of these well-mixed gases from new motor vehicle engines contribute to the greenhouse gas pollution which threatens public health and welfare. By determining that GHG emissions from mobile sources contribute or cause air pollution that endanger public health or welfare, EPA also established that it is required to regulate GHG emissions from stationary sources.

On May 13, 2010, EPA issued regulations under the CAA to require permitting of larger stationary sources of greenhouse gases. These regulations

trigger CAA permitting requirements under the federal Prevention of Signification Deterioration (PSD) and Operating Permit (Part 70) programs for GHG emissions. Because GHG emissions from most sources generally exceed existing levels of significance for criteria pollutants, EPA "tailored" their regulations for when they included greenhouse gases. Without this tailoring, GHGs would be subject to the same permit thresholds as “criteria” air pollutants. The federal PSD and Part 70 permitting levels for non-GHG pollutants are:

- **PSD Permitting:** 250 or 100 tons^b per year (tpy) (depending on the source type), and
- **Part 70 Permitting:** 100 tpy.

These thresholds are based on a source’s potential to emit and are on a per pollutant basis. Sources above these levels are considered major sources.

Treating GHGs as “criteria” air pollutants would greatly increase the number of permitted small sources.[Ref. 1 & 2] To provide an alternative, EPA adopted a “Prevention of Significant Deterioration and Part 70 Greenhouse Gas Tailoring Rule” (Tailoring Rule). This rule, which became final on May 13, 2010 [Ref. 3], establishes thresholds for permitting in two steps:

- A. Step 1 - Beginning January 2, 2011:** This step applies to stationary sources that are major due to their non-GHG pollutant emission rates. The following provisions will apply:

PSD: For new major sources (of non-GHG gases), permits will be required to address GHG Best Available Control Technology (BACT) if they will emit or will have the potential to emit 75,000 tpy carbon dioxide equivalent (CO₂e) or more.^c

^a “Title V” in the EPA rule title refers to the federal permit program of the Clean Air Act (CAA or Act). The District implements Title V through local Regulation XIII, Part 70 Operating Permits. Part 70 refers to the 40 CFR section that implements Title V. This Background Paper uses the term “Part 70” in lieu of “Title V,” for consistencies with terminology in the local rules.

^b One ton equals 2,000 pounds.

^c Carbon dioxide equivalent is described in item 3 of Appendix B. Click [here](#) to go to that description.

For existing major sources, permits will be required to address GHG Best Available Control Technology [BACT]) if they:

1. Increase net GHG emissions by at least 75,000 tons per year tpy of carbon dioxide equivalent (CO₂e), and
2. Have a significant net emissions increase in at least one non-GHG pollutant.^a

Part 70 Sources: Sources must include GHG emission data in their applications and address any applicable GHG requirements when they apply for, renew, or revise their permits.

- B. Step 2 - Beginning July 1, 2011:**^b Sources not already subject to federal PSD or Part 70 permitting may become subject to such permitting based solely on their GHG emissions. The following provisions will apply:

PSD: New sources with PTE emissions above the 100,000 tpy CO₂e threshold must obtain PSD permits and address GHG BACT.

Existing sources that are major sources based on criteria pollutant thresholds or GHG emissions above 100,000 tpy CO₂e will now become subject to PSD permitting if they undertake modifications that increase emissions of GHGs by at least 75,000 tpy CO₂e or have a significant emissions increase in at least one non-GHG pollutant.

Part 70: An existing or newly constructed source will become subject to Part 70 permitting if GHGs equal or exceed the 100,000 tpy CO₂e (potential to emit) threshold. Such sources have one year to submit a Part 70 application. The Part 70 permits must include any applicable GHG requirements.

EPA has committed to developing a Tailoring Rule Step 3 (effective July 1, 2013). In Step 3, additional sources may become subject to PSD and Part 70 requirements if GHGs thresholds are lowered.

^a 40 CFR 52.21(b)(49)(iii) provides information on “significant emissions increase.”

^b Sources subject to the Step 1 provisions will continue to be covered by those requirements.

To implement the EPA Tailoring Rule requirements, the District proposes amendments to four rules and the adoption of one new rule:

1. Amended Rule 102, Definitions,
2. Amended Rule 202, Exemptions to Rule 201
3. Amended Rule 370, Potential to Emit – Limitations for Part 70 Sources
4. New Rule 810, Federal Prevention of Significant Deterioration (PSD)
5. Amended Rule 1301, Part 70 Operating Permits – General Information

The proposed new and amended rules include changes to incorporate the GHG applicability thresholds and the two step phase in requirement. Additions and amendments include:

- a. A new "greenhouse gases" definition in Rule 102;
- b. References in several rules to federal provisions that specify when stationary sources of GHGs emissions are “subject to regulation”;
- c. Amended definitions for terms like *attainment pollutant*, *major stationary source*, and *Part 70 Source*; and
- d. An amendment to Rule 202.D.2 to exclude GHGs when calculating aggregate threshold emissions.

It is important to note that mainly existing Part 70 permit sources in Santa Barbara County will be required to comply with GHG permitting requirements at this time. Most permit holders in the district will not be impacted by these new requirements. We only anticipate up to two additional stationary source permits that may become subject to Part 70 permits during Step 2.

The Tailoring Rule provisions benefit the regulated community by increasing the GHG emission threshold that would otherwise trigger PSD or a Part 70 permit. For example, without the Tailoring Rule provisions, a source with a mid-size natural-gas fired commercial water heater rated at 0.2 MMBtu/hour would require a Part 70 permit. Under the Tailoring Rule provisions, a source consisting of one boiler will not trigger the Part 70 provisions unless the boiler is 197 MMBtu/hour or greater.^c

^c Based on the boiler’s CO₂e emissions alone.

PROPOSED RULES

The proposed rules are contained in Attachment 4 of the “EPA GHG Tailoring Rule Project” Board Package. The following summarize the new/amended rule provisions.

Rule 102, Definitions

The District proposes a new “*Greenhouse Gas*” or “*Greenhouse Gases*” definition that refers to the state definition. In addition, the definition of *attainment pollutant* has been clarified to exclude GHG.

Rule 202, Exemptions to Rule 201

Rule 202.D.2 includes a change to ensure existing permit exemptions will continue to apply to sources of GHGs.

Rule 370, Potential to Emit – Limitations for Part 70 Sources

Rule 370 provides for sources to be exempt from Rule 1303, Part 70 Permits – Permits based on actual emission levels. Exemptions may apply if actual stationary source emissions are maintained less than 50% of a Part 70 threshold, as demonstrated by 12 months of records consistent with the rule requirements.

Definitions in Rule 370 are amended for consistency purposes and to reference the federal GHG permitting thresholds (i.e., the levels at which GHGs are “subject to regulation”) specified in the Greenhouse Gas Tailoring Rule. The Rule 370 amendments also incorporate the federal definition of GHGs, found in the Part 70 (Title V) regulation (40 CFR 70.2).

Rule 810, Prevention of Significant Deterioration (PSD)

Proposed new Rule 810 will incorporate by reference the federal *Prevention of Significant Deterioration of Air Quality* rule requirements. Once approved, the District will request EPA to incorporate it into the State Implementation Plan.

Proposed Rule 810 is an EPA-approved model rule. If adopted exactly as proposed, EPA will accept the rule.

The District has an existing PSD rule: Rule 803, *Prevention of Significant Deterioration (PSD)*. On March 3, 2003, EPA revoked the District’s PSD delegation authority. The District is retaining Rule 803 as a locally enforceable rule. This is consistent with Senate Bill 288 anti-backsliding provisions and the California Health and Safety Code, Section 42504(a). Rule 803 was adopted before December 30, 2002 and Section 42504(a) does not allow the District to make the rule less stringent. For these reasons, Rule 803 will continue to be a local PSD rule and Rule 810 will be the federal PSD rule.

Rule 1301, Part 70 Operating Permits – General Information

Similar to the changes made to Rule 370, definitions in Rule 1301 are amended for consistency purposes and to reference the federal GHG permitting thresholds (i.e., the levels at which GHGs are “subject to regulation”) specified in the Greenhouse Gas Tailoring Rule. The Rule 1301 amendments also incorporate the federal definition of GHGs, found in the Part 70 (Title V) regulation (40 CFR 70.2).

Appendix A, Clarification of Rule Issues, provides additional information the implementation of the EPA Greenhouse Gas Tailoring Rule provisions.

EMISSION REDUCTION / COST-EFFECTIVENESS

Emission Reductions

The new and proposed amended rules are administrative in nature relative to permitting actions. They are not control measures. Hence, there are no emission reductions expected from the proposed rule action.

Cost-Effectiveness and Incremental Cost-Effectiveness

There are no cost-effectiveness or incremental cost-effectiveness figures relative to this rulemaking task. The new/amended rules are not implementing a control measure or retrofit control requirements. Further, there are no emission reductions anticipated from them. Thus, the requirements of California Health and Safety Code (H&SC) Section 40703 and Section 40920.6 do not apply.

ANALYSIS OF EXISTING FEDERAL AND DISTRICT REGULATIONS

H&SC Section 40727.2(a) requires districts to provide a written analysis of existing regulations prior to adopting, amending or repealing a regulation. However, the proposed rule action is consistent with categories described in H&SC Section 40727.2(g). Hence, the requirements of H&SC Section 40727.2(a) are satisfied.

COMMENTS AND PUBLIC MEETINGS

Comments

Attachment 3 to the "EPA GHG Tailoring Rule Project" Board Package contains written public comments received before December 29, 2010. This attachment also contains the APCD's responses to the comments. Written comments received between December 29, 2010 and January 20, 2011, will be provided to Board with the District's response during the January 20, 2011 Board Hearing.

Public Meetings

STAKEHOLDERS MEETINGS

The District met individually with representatives of sources that are anticipated to require Part 70 permits for the first time due to the rule action. Table 2 in the "Impacts to Industry and the District" section of this Staff Report provides a list of these sources.

COMMUNITY ADVISORY COUNCIL MEETING, (DECEMBER 8, 2010)

Staff briefed the CAC on:

1. the EPA Tailoring Rule requirements, and
2. on how the new/amended rules will implement them.

The Community Advisory Council passed a motion to recommend that the Board approve the proposed amended rules and new Rule 810 dated December 8, 2010.

PUBLIC HEARING ON THE ADOPTION OF THE PROPOSED AMENDED RULES, (JANUARY 20, 2011)

The Board is scheduled to consider the adoption of the new/amended rules at the January 20, 2011 Public Hearing.

COMPARISON OF ADJOINING AIR POLLUTION CONTROL DISTRICT RULES

The adjoining air districts are in the progress of adopting similar rule provisions to implement the EPA Tailoring Rule requirements.

IMPACTS TO INDUSTRY AND THE DISTRICT

Step 1 of the Tailoring Rule will only have a minor impact on existing Part 70 source permit holders. Table 1 identifies the sources that currently have Part 70 permits and will need to comply with Step 1 of the Tailoring Rule. In addition Table 1 lists EPA major sources that could possibly trigger PSD requirements for GHG in the future.

Table 1. EXISTING SOURCES EPA MAJOR SOURCES (250 tpy or Greater)
 AND/OR PART 70 PERMIT SOURCES

Stationary Source	Stationary Source Name	EPA Major Source (250 tpy)	Part 70
02667	BreitBurn Energy- Orcutt Hill	1	1
01735	Celite Corporation	1	1
08713	City of Santa Maria Landfill		1
03707	County of SB-Tajiguas Landfill		1
08003	Dos Cuadras - South County		1
01073	E & B - South Cuyama	1	1
01482	ExxonMobil - SYU Project	1	1
02658	Greka South Cat Canyon	1	1
08001	Pacific Operators - Carpinteria		1
04632	Pt. Pedernales/Lompoc Oil Fields		1
05019	So Cal Gas - La Goleta	1	1
01325	The Point Arguello Project	1	1
00027	Venoco - Carpinteria	1	1
01063	Venoco - Ellwood		1
10344	Wm. Bolthouse Farms	1	1
	TOTALS	9	15

Table 2 identifies the sources with CO₂e of 100,000 tons per year and greater. These sources will be subject to Part 70 permitting requirements under the Tailoring Rule Step 2. If a qualifying modification is made to these sources, they will also be subject to federal PSD permitting requirements.

Table 2. EXISTING SOURCES THAT MAY BECOME SUBJECT TO
THE PART 70 PERMITTING REQUIREMENTS

Stationary Source	Stationary Source Name
02795	UCSB
01195	Vandenberg Air Force Base

According to the EPA Overview of Part 70 [Ref. 1 & 2]:

A source generally must apply for a Part 70 permit within 1 year of first becoming subject to permitting - for new sources; this is usually within one year of commencing operation. The application must include, among other things, identifying information, a description of emissions and other information necessary to determine applicability of requirements and information concerning compliance with those requirements. The permitting authority uses this information to develop the source's operating permit. [. . .]

REFERENCES

1. *Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule*, 40 CFR Parts 51, 52, 70, and 71, Federal Register, Volume 75, No. 106, U.S. Environmental Protection Agency, June 3, 2010.
2. Federal Regulation citation: 75 FR 31514, June 3, 2010.
3. *Fact Sheet, Final Rule: Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule*, U.S. Environmental Protection Agency, April 13, 2010. (Available at: <http://www.epa.gov/nsr/actions.html#may10>)

APPENDIX

Appendix A: Clarification of Rule Issues

Appendix A
Santa Barbara County
Clarification of Rule Issues

The following text provides clarification of rule issues. To help the reader locate a specific issue, a table of contents is provided below.

Table 1. TABLE OF CONTENTS FOR THE CLARIFICATION OF RULE ISSUES

Rule Section or 40 CFR Part	Topic	Page
40 CFR 52.21 and 70	Request to Clarify PSD and Part 70 Requirements under Step 2 of the Tailoring Rule	<u>B-1</u>
40 CFR 52.21 and 70	Availability of a Guidance Document on How PSD and Part 70 GHG Requirements Apply for the Two Phases	<u>B-2</u>
40 CFR 51.166(b)(48)(ii), 52.21(b)(49)(ii), and 70.2	Meaning of the “Carbon Dioxide Equivalent” or “CO ₂ e” term and a description of how it is calculated	<u>B-3</u>

40 CFR 52.21 and 70

Request to Clarify PSD and Part 70 Requirements under Step 2 of the Tailoring Rule

Questions/Issues: The following is based on information in an EPA fact sheet:

- Step 2 will build on Step 1. In this phase, PSD permitting requirements will cover for the first time new construction projects that emit GHG emissions of at least 100,000 tpy even if they do not exceed the permitting thresholds for any other pollutant. Modifications at existing major sources that increase GHG emissions by at least 75,000 tpy will be subject to permitting requirements, even if they do not significantly increase emissions of any other pollutant.
 - based on their GHG emissions even if they would not apply based on emissions of any other pollutant. Facilities that emit at least 100,000 tpy CO₂e will be subject to Part 70 permitting requirements.
1. Regarding the first bullet, if a new major source or a major modification results based on GHG emissions only, does the PSD analysis have to consider BACT and an Air Quality Impact Analysis (AQIA) for all pollutants, or solely GHG?
 2. Regarding the second bullet, if GHG emissions alone cause a source to become a Part 70 source, we presume the permit has to address all applicable requirements in the Part 70 permit, and not just applicable requirements for GHG. Correct?

Answer/Response: Yes for a given project where the only significant increase in emissions is for GHG (not any other PSD pollutant, such as NO_x at 40 tpy), then a BACT analysis is only required for GHG. No AQIA is required for GHG, since there is no National Ambient Air Quality Standard for GHG. In general, the PSD requirements apply to any pollutant for which a significant increase occurs, even if the source is not major for that particular pollutant, as long as they are major for at least one PSD pollutant.

For the second question, you are correct. Once the requirement to obtain a Part 70 permit is triggered, because the source is a major source of GHGs, then just like any other Part 70 permit, it must identify all applicable requirements and include them in the Part 70 permit.

Click [here](#) to return to the Table of Contents.

Availability of a Guidance Document on How the PSD and Part 70 GHG Requirements Apply for the Two Phases

Questions/Issues: Is there a guidance document on how the PSD and Part 70 GHG requirements apply for the two phases? We think it may be a useful to have such a document to facilitate the explanation on how the different provisions are triggered and at what thresholds.

Answer/Response: The EPA Greenhouse Gas Tailoring Rule Federal Register (75 FR 31514, June 3, 2010) includes general information and an overview of the requirements. Also, the EPA document, "PSD and Title V Permitting Guidance For Greenhouse Gases," November 2010, provides information on the permitting procedures. This document is available from this web page: <http://www.epa.gov/nsr/guidance.html>. The following summary tables and information are provided to help clarify the major EPA Tailoring Rule requirements.

TYPE	STEP 1: 01/02/2011 - 06/30/2011	STEP 2: 07/01/2011 - 06/30/2013
Part 70		
	Covers Existing Part 70 Sources	All sources \geq 100,000 tpy CO ₂ e, including new construction projects.
PSD		
	Covers Existing EPA Major Source (250 tpy or greater) Sources with modifications that result in emission increases \geq 75,000 tpy CO ₂ e	New construction projects with \geq 100,000 tpy CO ₂ e Modifications at existing major source facilities with increase of \geq 75,000 tpy CO ₂ e

Note: The 75,000 tpy and 100,000 tpy figures are in terms of potential to emit (not actuals).

**Final PSD/T-V GHG Tailoring Rule
 Step 1: Permit Issuance Dates of
 January 2, 2011 – June 30, 2011**

- ◆ Only sources currently subject to PSD or Title V permitting programs
- ◆ Any increase of \geq 75,000 tpy of CO₂e at a PSD or T-V Source is subject to PSD (i.e. GHG BACT)
- ◆ No sources are subject to Clean Air Act permitting requirements solely for GHG emissions

**Final PSD/T-V GHG Tailoring Rule
Step 2: Permit Issuance Dates of
July 1, 2011 – June 30, 2013**

PSD Permitting

- ◆ New construction projects with emissions of $\geq 100,000$ tpy of CO₂e
- ◆ Modifications at any existing facility with increase of $\geq 75,000$ tpy of CO₂e

Title V Permitting

- ◆ All new and existing sources $\geq 100,000$ tpy CO₂e

The following clarifying information is based on correspondence from EPA staff:

It should be noted that for Part 70, there are only two things that changes come January 2, 2011. First, all new Part 70 applications must include sufficient GHG emission data in their application so that the District can determine if any GHG requirements apply. Second, for now, the only GHG applicable requirement are PSD permit terms and conditions related to GHGs. So, unless a source has a pending PSD permit action that will address GHGs, nothing will change for an existing Part 70 source. Come July 1, 2011, nothing changes for existing Part 70 sources, but if an existing or new source is now classified as a major source because of their GHG emissions, then they have 12 months to submit a complete Part 70 application. For the PSD program, if a source that needs a federal PSD permit does not obtain it before January 2, 2011, then the PSD permit must also evaluate GHGs. If it would only need a PSD permit because of GHGs, it must either begin actual construction prior to July 1, 2011, or obtain a PSD permit.

Note: It is our understanding that the above statement, “For the PSD program, if a source that needs a federal PSD permit does not obtain it before January 2, 2011, then the PSD permit must also evaluate GHGs,” means:

1. The existing major source requires a revised federal PSD permit because of an increase in emissions of a pollutant other than GHGs,
2. “Evaluate GHG” refers to calculating and verifying whether any GHG emission increases, based on potential to emit, are also subject to PSD requirements during the federal PSD permit process, and
3. The source will be subject to the PSD GHG BACT requirement if the GHGs have the potential to emit 75,000 tpy CO₂e or more unless the source accepts a synthetic minor limit in their PSD permit to limit their PTE below the 75K tpy CO₂e threshold.

40 CFR 51.166(b)(48)(ii), 52.21(b)(49)(ii), and 70.2

Meaning of the “Carbon Dioxide Equivalent” or “CO₂e” term and a description of how it is calculated

Questions/Issues: What does the term *carbon dioxide equivalent* or *CO₂e* mean and how is it calculated?

Answer/Response: This term is defined in various new 40 CFR subparts as follows:

1. **40 CFR Part 51.166(b)(48)(ii) and Part 52.21(b)(49)(ii):** [. . .] the term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed as follows:
 - (a) Multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of part 98 of this chapter— Global Warming Potentials.
 - (b) Sum the resultant value from paragraph (b)(48)(ii)(a) of this section for each gas to compute a tpy CO₂e.

2. **40 CFR Part 70.2:** The term *tpy CO₂ equivalent emissions (CO₂e)* shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of part 98 of this chapter—Global Warming Potentials, and summing the resultant value for each to compute a tpy CO₂e.

Click [here](#) to return to the Table of Contents.

Click [here](#) to return to the list of Appendices in the Staff Report.